

Text of Proposed Regulations

In the following text, underlining indicates adopted or amended text; and ~~strikethrough~~ indicates deleted text.

3000. Definitions.

Section 3000 is amended to alphabetically merge the definitions below with those that exist in the regulations. Additionally two definitions are deleted as indicated by strikethrough.

Accessory means a person who, after a felony has been committed, harbors, conceals or aids a principal in such felony, with the intent that the principal may avoid punishment, and has knowledge that said principal committed the felony.

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~~Controlled Medication means any drug which is prescribed by a physician and is given to an inmate in controlled dosages.~~

Controlled Substance means any substance, drug, narcotic, opiate, hallucinogen, depressant, or stimulant as defined by California Health and Safety Code Section 11007. Also included are prescribed medications containing any of the substances identified in the H&SC section above.

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Custody of the department means the inmate is in the physical custody of the department. The inmate would be considered out of the custody of the department when; out to court and housed in a County or Federal facility, escaped and not returned to departmental custody, in a non-departmental mental health facility, and in a medical facility under non-departmental supervision.

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Dangerous contraband means materials or substances altered from their original manufactured state or purpose and which could be fashioned into a weapon. Examples would include, but not be limited to, metal, plastic, wood, or wire. Also included are :sharpened objects such as scissors or other tools not authorized to be in the inmate's possession, as well as poison, caustic substances, or flame producing devices i.e. matches or lighters.

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Deadly weapon means any weapon identified in Penal Code section 4502. Any item or substance not readily identified as a weapon becomes a deadly weapon when used in a manner that could reasonably result in serious bodily injury or death.

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Disciplinary Free Period means the period that commences immediately following the date and time an inmate is identified (date of discovery of information leading to the charge) as committing a rules violation classified as serious.

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Second sentence of drugs definition is being amended to create Drug paraphernalia definition and is to merge alphabetically with those that exist in the regulations.

Drugs means substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease, and as defined in Health and Safety Code section 11014. ~~In may also include~~ Drug paraphernalia means any device, contrivance, instrument, or paraphernalia intended to be used for unlawfully injecting or consuming into the human body a controlled substance as defined-identified in Health and Safety Code section 11014.511007.

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Effective communication means providing the inmate, to the extent possible, the means to understand and participate in the disciplinary process to the best of their ability. This may be accomplished through reasonable accommodation or assignment of a staff assistant. If the inmate's Test of Adult Basic Education (TABE) score is 4.0 or lower, employees are required to query the inmate to determine whether or not assistance is needed to achieve effective communication. The employee is required to document on appropriate CDCR forms his/her determination of whether the inmate appeared to understand, the basis for that determination and how it was made. For contacts involving due process, employees shall give priority to the inmate's primary means of communication, which may include but is not limited to; auxiliary communication aids, sign language interpreter, and bilingual interpreter.

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Exceptional Circumstances means circumstances beyond the control of the department or the inmate that prevent the inmate or requested witnesses from participating in the disciplinary hearing within established time limitations. Examples of this as applied to an inmate would include a serious temporary mental or physical impairment verified in writing by a licensed clinical social worker, licensed psychologist, psychiatrist, or physician. Some examples of exceptional circumstances preventing staff witnesses, to include the reporting employee, from attending the disciplinary hearing would be extended sick leave, bereavement leave, personal emergency, or extended military duty.

Exceptional circumstances, as described above, would allow for suspension of time limitations pending resolution of the instances.

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Hearing Committee means a panel of three certified Senior Hearing Officers comprised of: one Correctional Lieutenant or Correctional Counselor II, one Facility/Correctional Captain or Correctional Counselor III, and one staff member at the level of Associate Warden or above, or any combination thereof.

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Intoxicant not identified as a controlled substance means toluene or any bi-product i.e. paint thinners, paint, fingernail polish, lacquers, gasoline, kerosene, adhesives or other substance that markedly diminishes physical and/or mental control.

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Laboratory means any toxicological or ~~criminalistic~~ forensic laboratory which has been recognized by the state, other certifying agency, or which is accepted by any local, county, or state prosecuting authority to provide evidence as to the presence of controlled substances in human body fluids or confirm that a substance is or contains any controlled substance.

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Principal means any person involved in the commission of a crime, felony or misdemeanor, whether they directly commit the act constituting the offense, or aid and abet in its commission, or not being present, have advised and encouraged its commission, or who, by threats, menaces, command or coercion, compel another to commit any crime.

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Public official means any person identified in Penal Code Section 76. CDCR staff are considered the staff of an exempt appointee of the Governor.

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~~Significant work related disciplinary history means a guilty finding for two work related serious rule violation reports or one serious and two administrative work related rule violation reports within the last 180 days from the date of the current work related disciplinary offense.~~

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Under the influence of alcohol, any drug, controlled substance, toluene or any combination thereof means being in a condition that he/she is unable to exercise care for his/her safety or the safety of others pursuant to Penal Code 647(f) and confirmed by a positive test from a departmentally approved testing method, to include field sobriety testing.

NOTE: Authority cited: Sections 2717.3, 5058 and 5058.3, Penal Code; Section 10115.3(b), Public Contract Code; and Sections 4525(a), 4526 and 14837, Government Code. Reference: Sections 186.22, 243, 314, 530, 532, 646.9, 653m, 832.5, 1389, 2080, 2081.5, 2600, 2601, 2700, 2717.1, 2717.6, 2932.5, 4570, 5009, 5054, 5068, and 7000 et seq., Penal Code; Sections 1132.4 and 1132.8, Labor Code; Sections 10106, 10108, 10108.5, 10115, 10115.1, 10115.2, 10115.3 and 10127, Public Contract Code; and Section 999, Military and Veterans Code; Section 391, Code of Civil Procedure; In re Bittaker, 55 Cal.App. 4th 1004, 64 Cal. Rptr. 2d 679; and Section 11007, Health and Safety Code.

Section 3005 Conduct is amended to read:

Subsection 3005 (a) thru (c) remain unchanged.

Subsection 3005(d) is amended to read:

~~(d) Force or Violence. Inmates shall not willfully commit or assist another person in the commission of a violent injury to any person or persons, including self mutilation or attempted suicide, nor attempt or threaten the use of force or violence upon another person. Inmates shall not willfully attempt to incite others, either verbally or in writing, or by other deliberate action, to use force or violence upon another person.~~

New Subsections 3005(d)(1) through 3005(d)(3) are adopted to read:

(1) Inmates shall not willfully commit or assist another person in the commission of an assault or battery to any person or persons, nor attempt or threaten the use of force or violence upon another person.

(2) Inmates shall not, with the intent to cause a riot, willfully engage in conduct that urges a riot, or urges others to commit acts of force or violence at a time and place under circumstances that produce a clear and present and immediate danger of acts of force or violence or the burning or destroying of property.

(3) Inmates shall not participate in a riot, rout, or unlawful assembly.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 242, 295–300.3, 404-409, 2931 and 5054, Penal Code.

Section 3006 Contraband is amended to read:

Subsection 3006(a) through 3006(c)(18) remains unchanged.

New subsection 3006(c)(19) is adopted to read:

(19) Cellular telephone or other electronic communications device.

Subsection 3006(d) remains unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2600, 2601, 2772, 2790, 4574, 5030.1, 5054 and 5057, Penal Code.

Section 3008. Obscenity is amended to read:

Inmates ~~may~~ shall not openly or publicly display photographs, pictures, drawings, or other pictorial representations of persons engaged in sexual acts, actual or simulated, masturbation, excretory functions or lewd exhibitions of the genitals which are obscene as defined in Section 311 of the Penal Code.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

Section 3009 Gambling is amended to read:

Inmates ~~may~~ shall not participate in any form of gambling or bookmaking.
Comment: Former DR-1107, gambling and bookmaking.

Existing Section 3011 State Property is renamed ~~State~~ Property and amended to read:

Inmates shall not intentionally destroy, damage, or deface , ~~alter or misuse~~ state property or another person's property. To do so shall be cause for disciplinary action and the inmate may be charged for the cost of repair or replacement, including materials ~~and labor~~. Intentional destruction of ~~state~~ property may result in a credit loss as specified in section 3323(c)(43), 3323(d)(~~56~~), or 3323(g)(1) of these regulations. Intentional damage to ~~state~~ property ~~in excess of~~ valued at four hundred dollars ~~or more~~ may result in criminal prosecution and an additional term of imprisonment in addition to any credit loss resulting from the disciplinary action. Intentional damage to ~~state~~ property valued at ~~four hundred dollars or less~~ than four hundred dollars may result in a misdemeanor conviction in addition to any credit loss resulting from the disciplinary action.

Note: Authority cited: Section 5058, Penal Code. Reference: section 5054, 594(a) Penal Code.

Section 3012 Theft is amended to read:

Inmates ~~may~~ shall not obtain anything by theft, fraud or dishonesty.

Comment: Former DR-1110, stealing and dealing.

Section 3013 Unlawful Influence is amended to read:

Inmates ~~may~~ shall not attempt to gain special consideration or favor from other inmates, employees, institution visitors or any other person by the use of bribery, threat or other unlawful means.

Comment: Former DR-1111, improper influence.

Section 3015. Unauthorized Areas and Facility Boundaries is amended to read:

Subsection 3015(a) through 3015(c) remains unchanged.

New Subsection 3015(d) is adopted to read:

(d) Inmates shall not escape, attempt to escape or conspire with others to escape from the custody of the department. Inmates shall not solicit or coerce others to aid or assist in an escape.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

3016. Controlled Substances, Drug Paraphernalia, and Distribution is amended to read:

Subsection 3016(a) is amended to read:

(a) Inmates ~~may~~ shall not inhale, ingest, inject, or otherwise introduce into their body; use, possess, manufacture, or have under their control any controlled substance, ~~controlled~~ medication, or alcohol, except as specifically authorized by the institution's/facility's health care staff.

Subsection 3016(b) is amended to read:

(b) Inmates ~~may~~ shall not possess, exchange, manufacture, or have under their control any paraphernalia as defined by Health and Safety Code section 11014.5, or device related to the use, injection, or manufacture of any controlled substance ~~or controlled medication~~, except as specifically authorized by the institution's/facility's health care staff.

Subsection 3016(c) is amended to read:

(c) Inmates shall not distribute, as defined in section 3000, any controlled substance ~~or controlled medication~~.

Subsection 3016(d) is amended to read:

(d) Inmates ~~may~~shall not possess ~~controlled~~ medication in quantities exceeding the dosage specifically authorized by the institution's/facility's health care staff, nor may an inmate possess ~~controlled~~ medication prescribed to another inmate.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2931, 4573, 4573.6 and 5054, Penal Code; and Sections 11014.5, 11350–11383, Health and Safety Code.

Existing Section 3290 is renamed Methods for Testing of Controlled Substances or for Use of Alcohol and amended to read:

Subsection 3290(a) is amended to read:

(a) The department shall prescribe the products, equipment, and methods for testing suspected controlled substances or for the use of alcohol. “Field” or on-site testing shall be conducted only by trained ~~and certified~~ personnel.

Subsection 3290(b) remains unchanged:

Subsection 3290(c) is amended to read:

(c) The securing of a urine sample from an inmate, for the purpose of testing for the presence of controlled substances or for use of alcohol ~~shall~~ may be done for the following reasons:

Subsection 3290(c)(1) is amended to read:

(1) When there is reasonable cause to believe the inmate has possessed, distributed, used, or is under the influence of a controlled substance or alcohol.

Subsection 3290(c)(2) through (4) remains unchanged.

Subsection 3290(d) is amended to read:

(d) Inmates must provide a urine sample when ordered to do so pursuant to these regulations, for the purpose of testing for the presence of controlled substances or the use of alcohol.

Subsection 3290(e) is amended to read:

(e) Field testing of seized substances that are suspected of being a controlled substance shall be conducted for “screening” purposes only. Disciplinary action for possession of a controlled substance based solely on a field test shall not include the loss of

work/behavior credits unless a laboratory has confirmed that the suspected substance is in fact a controlled substance, or the inmate has admitted to possessing the controlled substance, accepts the results of a field test, and waives the requirement of testing by a laboratory, and has signed a document to that effect.

Subsection 3290(f) is amended to read:

(f) The positive test results from a urine sample submitted for testing for the presence of an unauthorized controlled substance or alcohol that has been confirmed as positive by a departmentally approved testing method laboratory may be considered as sufficient evidence to support a guilty finding for ~~charge the user with having had possession use~~ of the controlled substance or alcohol.

Subsection 3290(g) is amended to read:

(g) When evidence remaining after a field test or resulting from a field test is not suitable or sufficient for submission to a laboratory for confirmation of the field test, the field test results may be considered in a disciplinary hearing for possession of a controlled substance. Under such circumstances, a finding of guilty shall be based upon the preponderance of all evidence presented at the disciplinary hearing. Although no credit loss action may be taken when the only evidence being considered by the hearing official is the result from a field test, other authorized disciplinary actions may be taken ~~including the assessment of the mandatory one year drug testing period pursuant to section 3315 for violations of 3016(a).~~

Subsection 3290(h) is deleted.

~~(h) “Field” or “laboratory” testing for sobriety or the use of alcoholic beverages, a controlled substance, unauthorized drug, or intoxicant is not required if other evidence corroborates use. Credit loss and other authorized disciplinary actions may be taken based on a preponderance of evidence and testimony.~~

Subsection 3290(i) is renumbered and is amended to read as follows:

Subsection 3290(ih): ...

~~(ih)~~ The identification of unauthorized ~~controlled~~ medication, to include any medication considered to be a controlled substance as described in section 3000, may ~~must~~ be confirmed by a licensed pharmacist and that confirmation may be used as evidence in a disciplinary hearing. There shall be no requirement for laboratory testing of intact ~~controlled~~ medications when identification of the ~~controlled~~ medication has been confirmed by a pharmacist. The pharmacist will indicate whether the medication contains any of the substances listed in Health and Safety Code (H&SC) section 11007 to enable the determination of the appropriate classification level pursuant to section 3323 relative to a disciplinary violation for unauthorized possession or distribution of the medication.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2932, 4573.6 and 5054, Penal Code.

Article 5. Inmate Discipline

3310 Definitions.

Sections 3310 Definitions is amended to read:

Subsections 3310(a) through 3310(c) remain unchanged.

Subsection 3310(d) is amended to read:

(d) Experienced means a permanent employee at the designated level, certified by the ~~e~~Chief ~~d~~Disciplinary ~~o~~Officer (CDO) or designee as competent to serve as a senior hearing officer or hearing officer, as specified. Requirements for certification shall include in-service or on-the-job training in disciplinary procedures and observation of five serious/administrative disciplinary hearings. A probationary, limited term, or training and development employee at the designated staff level may be certified as experienced. Acting staff whose permanent position is at a level lower than that required shall not be assigned senior hearing officer/hearing officer responsibility.

Subsection 3310(e) and (f) remain unchanged.

NOTE: Authority cited: Sections 5058 Penal Code. Reference: Sections 5054, 6252, and 6260 Penal Code.

Section 3313 Classification of Rules Violation Report and Notice of Pending Charges is amended to read:

Subsection 3313(a) remains unchanged.

New Subsection 3313(a)(1) is adopted to read:

(1) A CDC Form 804 (Rev. 08/00), Notice of Pending CDC-115, shall be completed by the classifying official and forwarded, with a copy of the CDC Form 115 attached, to Case Records within 48 hours of the inmate being charged with a serious level offense (Division "F" through "A-1"). Case Records staff shall file the CDC Form 804 with an attached copy of the CDC Form 115 in the inmate's Central File (C-File) within one working day of receipt in the Case Records office.

New Subsection 3313(a)(1)(A) is adopted to read:

(A) For parole violators who are charged with any Division "A", "B", or "C" offense, or any inmate who refuses to sign general and/or special conditions of parole or any form required by the Department of Justice explaining his/her responsibility to register under

Penal Code section 290, Case Records staff shall ensure that the C-File containing the CDC Form 804 and attached copy of CDC Form 115 be expedited to the Classification and Parole Representative to ensure revocation or revocation extension processes are initiated.

Subsections 3313(b) through (c)(1) remain unchanged.

Subsection 3313(c)(2) is amended to read:

(2) During the disciplinary hearing, the official conducting the hearing may ~~change~~ reduce a serious classification to administrative as a finding of the hearing if the reduced charge meets the criteria of an administrative violation as described in section 3314.

Subsection 3313(c)(3) is amended to read:

(3) ~~Before or a~~ After the disciplinary hearing, the chief disciplinary officer may ~~change~~ reduce a serious classification to administrative if the reduced charge meets the criteria of an administrative violation as described in section 3314.

Subsections 3313(c)(4), 3313(c)(4)(A) and 3313(c)(4)(B) remain unchanged.

New subsection 3313(c)(4)(C) is adopted to read:

(C) Time limitations relative to the re-issued CDC Form 115 shall commence on the date the chief disciplinary officer issues the order to re-hear pursuant to section 3320(a). Credit forfeiture will not be allowed if the time limitations were violated on the original CDC Form 115 that was ordered re-issued/re-heard.

Subsection 3313(c)(5) remains unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2079, 2932 and 5054, Penal Code; In re Hamilton (1991) 230 Cal.App.3d 1592, 281 Cal. Rptr. 900.

Section 3314 Administrative Rule Violations is amended to read:

Subsection 3314(a) through 3314(a)(2)(C) remain unchanged.

Subsection 3314(a)(2)(D) is amended to read:

(D) The introduction, use, or possession of controlled substances or alcohol. ~~or dangerous contraband.~~

Subsection 3314(a)(2)(E) is amended to read:

(E) ~~Any felony offense~~ Possession of dangerous contraband.

New subsection 3314(a)(2)(F) is adopted to read:

(F) Continued failure to meet program expectations.

New subsection 3314(a)(2)(G) is adopted to read:

(G) Any felony offense.

Subsection 3314(a)(3) remains unchanged.

Existing section 3314(a)(3)(A) is deleted.

~~(A) Theft, destruction, misuse, alteration, damage, or unauthorized acquisition or exchange of personal or state property valued at \$50 or less.~~

Subsections 3314(a)(3)(B) through 3314(a)(3)(L) are renumbered respectively, as follows:

Subsection 3314(a)(3)(~~B~~A): ...

Subsection 3314(a)(3)(~~C~~B): ...

Subsection 3314(a)(3)(~~D~~C): ...

Subsection 3314(a)(3)(~~E~~D): ...

Subsection 3314(a)(3)(~~F~~E): ...

Subsection 3314(a)(3)(~~G~~F): ...

Subsection 3314(a)(3)(~~H~~G): ...

Subsection 3314(a)(3)(~~I~~H): ...

Subsection 3314(a)(3)(~~J~~I): ...

Subsection 3314(a)(3)(~~K~~J): ...

Subsection 3314(a)(3)(~~L~~K): ...

Subsections 3314(b) through 3314(e)(1) remain unchanged.

Subsection 3314(e)(2) is amended to read:

(2) Suspension of privileges specified by the hearing official for no more than a 30 day period starting the date the rule violation report was adjudicated, except as authorized in section 3314(e)(10).

Subsections 3314(e)(3) through 3314(e)(9) remain unchanged.

New Subsection 3314(e)(10) is adopted to read:

(10) Inmates placed in ASU, SHU, PSU, Privilege Group D , who are found guilty of any RVR deemed administrative per this section are subject to temporary loss of entertainment appliances as follows:

1A. Thirty days for the first offense

2B. Sixty days for the second offense.

3C. Ninety days for the third offense.

Subsections 3314(f) through 3314(i) remain unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

Section 3315 Serious Rule Violations is amended to read:

Subsection 3315(a) remains unchanged.

Subsection 3315(a)(1) is amended to read:

(1) It is a serious disciplinary offense not specified as administrative in section 3314(a)(3), an offense punishable as a misdemeanor ~~not specified as administrative in section 3314(a)(3), whether or not prosecution in undertaken,~~ or is a felony, whether or not prosecution is undertaken.

Subsections 3315(a)(2) through 3315(a)(2)(C) remain unchanged.

Subsection 3315(a)(2)(D) is amended to read:

(D) The introduction, distribution, or possession, or use of controlled substances, alcohol, or dangerous contraband.

Subsections 3315(a)(2)(E) through 3315(a)(3)(A) remain unchanged.

Subsection 3315(a)(3)(B) is amended to read:

(B) Theft, embezzlement, destruction, ~~misuse, alteration, or~~ damage, ~~unauthorized acquisition or exchange of~~ to another's personal property or state property amounting to more than \$50.

Subsections 3315(a)(3)(C) through 3315(a)(3)(E) remain unchanged.

Subsection 3315(a)(3)(F) is amended to read:

(F) Being under the influence ~~(use) or use~~ of alcoholic beverages, controlled substances, unauthorized drugs or intoxicants in an institution, community correctional facility, or camp.

Subsections 3315(a)(3)(G) through 3315(a)(3)(N) remains unchanged.

Subsection 3315(a)(3)(O) is amended to read:

(O) Harassment of another person, group, or entity either directly or indirectly through the use of the mail or by any other means.

Subsections 3315(a)(3)(P) through 3315(a)(3)(Q) remain unchanged.

Subsection 3315(a)(3)(R) is amended to read:

(R) Refusal to submit to a test for controlled substances or alcohol.

Subsections 3315(a)(3)(S) through 3315(a)(3)(U) remain unchanged.

Subsection 3315(a)(3)(V) is amended to read:

(V) Unauthorized possession of materials or substances which have been ~~diverted~~ modified or altered from their original manufactured state or purpose with the potential to be made, or in the process of being made, into a weapon; explosive or explosive-making materials; poison; caustic substance; or any destructive device.

Subsections 3315(a)(3)(W) through 3315(b) remains unchanged.

Subsection 3315(c) is amended to read:

(c) Hearing. Serious rule violations shall be heard at the ~~sSenior hHearing oOfficer~~ (SHO) or higher level. A ~~senior hearing officer~~ SHO shall not be below the level of a facility captain, correctional captain, correctional counselor III, parole agent III, or an experienced correctional lieutenant, correctional counselor II, or a parole agent II.

Subsection 3315(d) and 3315(d)(1) remains unchanged.

Subsection 3315(d)(1)(A) is amended to read:

(A) An investigative employee, as described in section 3318(a), shall be assigned, ~~within one working day after the serious rule violation charges have been submitted for processing when the chief disciplinary officer or designee~~ staff designated to classify the serious rule violation determines that:

1. The complexity of the issues require further investigation.
2. The housing status makes it unlikely the charged inmate can collect and present the evidence necessary for an adequate presentation of a defense.
3. A determination has been made that additional information is necessary for a fair hearing ~~even if the inmate has waived the assignment.~~

New subsection 3315(d)(1)(B) is adopted to read:

(B) The inmate may choose to waive the assignment of an investigative employee as required by subsection (2) above. The inmate's request to waive assistance of an investigative employee under this subsection will be indicated in the "waived by inmate" checkbox on the CDC Form 115-A and signed and dated by the inmate. The classifying official may choose to un-assign the investigative employee based on the inmate's signed waiver on the CDC Form 115-A.

Existing Subsection 3315(d)(1)(B) is renumbered as follows:

Subsection 3315(d)(1)(BC): ...

(BC) Staff who witnessed or who will serve as a hearing official for a rule violation shall not serve as the investigative employee for that violation.

Existing Subsection 3315(d)(1)(C) is renumbered and is amended to read as follows:

Subsection 3315(d)(1)(CD): ...

(CD) The inmate may not select the investigative employee, but may object to the one assigned and provide, in writing to the classifying official, the reasons for the objection. ~~in which case, a second investigative employee shall be assigned to complete the investigation. The inmate's objection must be expressed prior to the beginning of the investigation. The classifying official shall evaluate the inmate's objection(s) and, if determined to be valid reasonable, assign an alternate investigative employee to complete the investigation. If the classifying official determines that the inmate's objections are not valid or reasonable, the original investigative employee shall complete the investigation. The inmate's objection must be expressed prior to the beginning of the investigation. The classifying official shall note on the CDC Form 115-A~~ their ~~his/her~~ decision to deny or

approve a request for an alternate investigative employee, and if denied, explain the reason(s) for denial.

Existing Subsection 3315(d)(1)(D) is renumbered as follows:

Subsection 3315(d)(1)(~~DE~~): ...

Subsection 3315(d)(2) remains unchanged.

Subsection 3315(d)(2)(A) is amended to read:

(A) The inmate shall be assigned a staff assistant, as described in section 3318(b), to assist in the ~~investigation~~, preparation, and presentation of a defense at the disciplinary hearing if the ~~chief disciplinary officer or designee~~ classifying official determines:

1. The inmate is illiterate or non-English speaking.
2. The complexity of the issues are such that assistance is necessary so the inmate comprehends the nature of the charges or the disciplinary process.
3. ~~The nature of the inmate's need for assistance requires a confidential relationship as described in subsection 3318(b)(2)(A)~~ The inmate's disability is such that staff assistance would be necessary for the inmate to participate in the disciplinary process.

New Subsection 3315(d)(2)(B) is adopted to read:

(B) At any point prior to the disciplinary hearing, if it is discovered that the inmate may need a staff assistant, the classifying official or staff at an equal or higher rank, shall be advised in writing of the need, and if appropriate per section 3315(d)(2)(A), order the assignment of the staff assistant. If the need for staff assistance is discovered by the hearing official at the time of the disciplinary hearing, the hearing official shall postpone the hearing and order the assignment of the staff assistant. In either instance, the inmate shall be provided at least a 24 hour time period to allow for preparation with the assigned staff assistant prior to participating in the disciplinary hearing.

Existing Subsections 3315(d)(2)(B) through 3315(d)(2)(D) are renumbered respectively, as follows:

Subsection 3315(d)(2)(~~BC~~): ...

Subsection 3315(d)(2)(~~CD~~): ...

Subsection 3315(d)(2)(~~DE~~): ...

New Subsection 3315(d)(2)(E)(1) is adopted to read:

(1) Inmate participants in the Mental Health Services Delivery System at the level of Enhanced Outpatient Program, Mental Health Crisis Bed, Department of Mental Health,

or Developmentally Disabled Program participants at the level of DD1-DD3 are ineligible to waive or refuse the assignment of a staff assistant. The staff assistant shall perform his/her required duties to the extent possible despite a waiver or refusal by the ineligible inmate to cooperate.

Subsection 3315(d)(2)(E) is renumbered and remains unchanged as follows:

Subsection 3315(d)(2)(~~EF~~): ...

New Subsection 3315(d)(2)(F)(1) is adopted to read:

(1) When an inmate has been assigned a staff assistant and an investigative employee, the staff assistant must be present during any questioning by the investigative employee.

Subsections 3315(e) through 3315(e)(3) remain unchanged.

Subsection 3315(e)(4) is amended to read:

(4) The reporting employee shall attend the disciplinary hearing or be available for questioning via speakerphone if requested by the inmate.

Subsection 3315(e)(5) is amended to read:

(5) Under the direction of the official conducting the disciplinary hearing, the inmate has the right to ask questions of all witnesses called. The SHO will screen all questions to ensure they are relevant to the violation charged.

Subsection 3315(e)(6) is amended to read:

(6) Nothing in this section shall preclude making a witness available by ~~telephone~~ speaker phone for a disciplinary hearing.

Subsections 3315(f) and Subsection 3315(f)(1) remain unchanged.

Subsection 3315(f)(2) is amended to read:

(2) Guilty of an administrative rather than a serious rule violation. In such case, the CDC Form 115 shall be ~~reclassified as~~ reduced to an administrative level offense and the inmate may be assessed only a disposition authorized in section 3314.

Subsections 3315(f)(3) through 3315(f)(4)(B) remain unchanged.

Subsection 3315(f)(4)(C) is amended to read:

(C) For the third and all subsequent offenses, the inmate must provide a minimum of four random drug tests per month for one year.

Subsections 3315(f)(4)(D) through 3315(f)(5)(A) remain unchanged.

Subsection 3315(f)(5)(B) is amended to read:

(B) Suspension of privileges specified by the hearing official for no more than a 90-day period starting the date the rule violation report was adjudicated. The suspension of privileges for violations of subsections ~~3323(e)(7)~~3016(a), 3016(c), and ~~3323(d)(6)~~3290(d) shall be assessed as follows:

1. Thirty days for the first offense.
2. Sixty days for the second offense.
3. Ninety days for the third offense.

Subsection 3315(f)(5)(C) remains unchanged.

Subsection 3315(f)(5)(D) is amended to read:

(D) Disciplinary detention or confinement to quarters as provided in sections 3330 and 3333 for not more than a ten-day period. If facility security will not be jeopardized, the inmate shall be released to attend work and program assignments.

1. Second offense violations of subsections ~~3323(e)(7)~~3016(a), 3016(c), and ~~3323(d)(6)~~3290(d) shall result in confinement to quarters for five days.
2. Third and all subsequent offense violations of subsections ~~3323(e)(7)~~3016(a), 3016(c) and ~~3323(d)(6)~~3290(d) shall result in confinement to quarters for 10 days.

Subsection 3315(f)(5)(E) remains unchanged.

Existing Subsection 3315(f)(5)(F) is deleted.

~~(F) Parole violators returned to custody who violate subsections 3323(e)(7) and 3323(d)(6) shall be referred to the Board of Prison Terms for consideration of extension of revocation time.~~

Existing Subsections 3315(f)(5)(G) and 3315(f)(5)(H) are renumbered as follows:

Subsection 3315(f)(5)(~~G~~F): ...

Subsection 3315(f)(5)(~~H~~G): ...

Existing Subsection 3315(f)(5)(I) is renumbered and amended to read as follows:

Subsection 3315(f)(5)(~~I~~H): ...

(H) For a violation of subsection ~~3323(e)(7)~~3016(c), there shall be a loss of visits for one year to be followed by non-contact visits for two years.

Existing Subsection 3315(f)(5)(J) is renumbered and amended to read as follows:

Subsection 3315(f)(5)(J): ...

(J) Loss of visits to be followed by non-contact visits for violations of subsection ~~3323(d)(6)~~3016(a) (with the exception of alcohol violations), or 3290(d) shall be as follows:

1. Loss of visits for 90 days, to be followed by non-contact visits for 90 days for the first offense.
2. Loss of visits for 90 days, to be followed by non-contact visits for 180 days for the second offense.
3. Loss of visits for 180 days, to be followed by non-contact visits for 180 days for the third offense.

Existing Subsection 3315(f)(5)(K) is renumbered and amended to read as follows:

Subsection 3315(f)(5)(K): ...

(K) Violation of subsections ~~3323(e)(7)~~3016(a), 3016(c), and ~~3323(d)(6)~~3290(d) shall result in:

1. For the first offense, the inmate shall be required to attend Alcoholic Anonymous or Narcotic Anonymous meetings or assigned to a substance abuse education program to the extent such programs are available in the institution/facility.
2. For the second offense, the inmate shall be referred for endorsement to a substance abuse program, provided that program eligibility criteria is met.
3. For the third offense, the inmate shall be referred for endorsement to a substance abuse program, provided that program eligibility criteria is met, and mandatory treatment shall be a condition of parole.

Existing Subsection 3315(f)(5)(L) is renumbered and remains unchanged as follows:

Subsection 3315(f)(5)(L): ...

New Subsection 3315(f)(5)(L) is adopted to read:

(L) Inmates placed in ASU, SHU, PSU, Privilege Group D, who are found guilty of any RVR deemed serious per this section are subject to temporary loss of entertainment appliances as follows:

1. Thirty days for the first offense
2. Sixty days for the second offense.
3. Ninety days for the third offense.

Existing Subsection 3315(f)(5)(M) through 3315(f)(5)(N) remain unchanged.

Subsection 3315(g) remains unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 295–300.3, 530, 532, 646.9, 647, 653m, 2931, 2932, 2933, 4573.6, 5054, 5068 and 12020, Penal Code.

Section 3317 Mental Health Evaluations for Disciplinary Hearings is amended to read:

Inmates in the Mental Health program or any inmate showing signs of possible mental illness may require a CDC 115 MH (Rev. 06/06), Rules Violation Report: Mental Health Assessment.

All inmates at the EOP, MHCB, and DMH level of care, who receive a CDC 115, Rules Violation Report shall be referred for a Mental Health Assessment. All inmates in CCCMS or non-MHSDS inmates who receive a CDC 115 Rules Violation Report, and who exhibit bizarre, unusual or uncharacteristic behavior at the time of the rules violation shall be referred for a Mental Health Assessment. An inmate shall be referred for a mental health evaluation prior to documenting misbehavior on a CDC Form 115, Rules Violation Report, in any case where the inmate is suspected of self mutilation or attempted suicide. If the mental health evaluation determines that it was an actual suicide attempt, a CDC Form 115 shall not be written and the behavior shall be documented on a CDC Form 128B (Rev. 4/74), General Chrono, for inclusion in the inmate's central file.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 5054, Penal Code.

Section 3318 Assistance to Inmates for Serious Rule Violations is amended to read:

Subsection 3318(a) is amended to read:

(a) Investigative employee. The investigative employee is designated as a fact finder to gather information for the senior hearing officer or disciplinary hearing committee as described in section 3315(d)(1)(A).

Subsections 3318(a)(1) through 3318(a)(1)(D) remain unchanged.

Subsection 3318(a)(1)(E) is amended to read:

(E) Submit a written report to the senior hearing officer or disciplinary committee chairperson to include witness statements and a summary of the information collected specific to the violation charged.

Subsections 3318(a)(2) through 3318(b)(2) remains unchanged.

Subsection 3318(b)(2)(A) is amended to read:

(A) ~~Upon the inmate's request, t~~ The staff assistant shall keep confidential any information the inmate may disclose concerning the charges for which the staff assistant was assigned.

Subsection 3318(b)(2)(B) is amended to read:

(B) All evidence and information obtained and considered or developed in the disciplinary process may be used in court if the ~~same charges~~ violation ~~have~~ has been or ~~are~~ is to be referred for criminal prosecution.

Subsections 3318(b)(3) and 3318(b)(4) remain unchanged.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2932 and 5054, Penal Code.

Section 3320 Hearing Procedures and Time Limitations is amended to read:

Subsection 3320(a) is amended to read:

(a) A classified copy of the CDC Form 115 per section 3313(a), CDC Form 115-A (Rev. 07/88), and any additional/supplemental information documented via the CDC Form 115-C (Rev. 5/95), containing any elements of the violation charged ~~and all nonconfidential reports to be relied upon in a disciplinary hearing~~ shall normally be provided to the inmate within 24 hours after the CDC Form 115 ~~has been classified serious or administrative and~~ within 30 days of the misconduct, but not later than 15 days from the date the information leading to the charges is discovered by staff or, in the case of an escapee, within 15 days after the escapee's return to the department's custody.

Subsection 3320(a)(1) is amended to read:

(1) Providing the inmate with a copy of the classified CDC Form 115, CDC Form 115-A, and CDC Form 115-C (if applicable) may be delayed beyond 15 days, but no more than an additional 30 days for a total of 45 days, and shall not prohibit forfeiture of credits as a penalty for the misconduct when all of the following criteria are met:

Subsections 3320(a)(1)(A) through 3320(a)(1)(C) remain unchanged and reads:

- (A) The misconduct could be prosecuted as murder, attempted murder, or battery on staff.
- (B) An investigation is continuing to identify others involved in the misconduct.
- (C) Within 15 days of discovering the misconduct, a written request to delay the inmate's notification, including the reasons for the delay, is approved by the chief disciplinary officer.

New Subsection 3320(a)(2) is adopted to read:

(2) Time limitations for a re-issued CDC Form 115 shall commence on the date the chief disciplinary officer orders the re-hearing pursuant to Subsection 3320(a)(1) above.

Subsection 3320(b) is amended to read:

(b) The charges shall be heard within 30 days from the date the inmate is provided a classified copy of the CDC Form 115 unless the charges were referred for possible prosecution and the inmate has been granted a request for postponement of the disciplinary proceedings pending the outcome of the referral, if exceptional circumstances exist pursuant to section 3000, or ~~if~~ the inmate is transferred out of the custody of the department.

New Subsection 3320(b)(1) is adopted to read:

(1) The Hearing for a CDC Form 115 ordered re-issued/re-heard shall be conducted pursuant to Subsection 3320(b) above relative to the re-issued copy.

Subsection 3320(c) remains unchanged and reads:

(c) A disciplinary hearing shall not be held until the inmate has been provided:

Subsection 3320(c)(1) is amended to read:

(1) A classified copy of the CDC Form 115 and all non-confidential reports containing information relative to the charge ~~to be relied upon in the hearing,~~ including the investigative employee's report.

Subsection 3320(c)(2) remains unchanged.

Subsection 3320(d) is amended to read:

(d) A hearing may be postponed up to 30 days upon receipt of the inmate's written request to the CDO showing a reasonable need for postponement. The CDO will evaluate the request and approve or deny it based on its credibility. Postponement shall not bar any credit forfeiture.

Subsections 3320(e) remains unchanged.

Subsections 3320(f) remains unchanged and reads:

(f) The following events shall preclude denial or forfeiture of credits:

Subsections 3320(f)(1) and 3320(f)(2) remain unchanged.

Subsection 3320(f)(3) is amended to read:

(3) The disciplinary hearing was not held within 30 days of the date the inmate was provided a classified copy of the CDC Form 115, unless the inmate requested and was granted a postponement of the hearing pending outcome of the referral pursuant to Section 3316, exceptional circumstances as defined in Section 3000 exist, or if the inmate is transferred out of the custody of the department.

Subsection 3320(f)(4) remains unchanged.

Subsection 3320(f)(5) is amended to read:

(5) The inmate was not provided a written explanation of the ~~extraordinary~~ exceptional circumstances preventing a hearing within 30 days after the inmate was provided a copy of the CDC Form 115 and the official conducting the hearing did not establish in the findings of the hearing that the delay did not prejudice the inmate.

Subsections 3320(g) remains the same and reads:

(g) The inmate shall normally be present at a disciplinary hearing. When a disciplinary hearing is held without the inmate present, the reason for the absence shall be documented during the hearing on the CDC Form 115. The inmate shall be present at a disciplinary hearing unless:

Subsection 3320(g)(1) and 3320(g)(2) remain unchanged.

Subsection 3320(g)(3) is amended to read:

(3) The inmate has waived the right to be present in writing, or in the case of a refusal to sign a waiver, the refusal was witnessed by a custody officer, documented on a CDC Form 128-B (Rev. 4/74), and attached to the CDC Form 115 for review by the Senior Hearing Officer at the disciplinary hearing and by the Chief Disciplinary Officer following adjudication of the rules violation report.

Subsections 3320(h) through 3320(m) remain unchanged.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2932 and 5054, Penal Code.

Section 3323. Disciplinary Credit Forfeiture Schedule is amended to read:

Subsection 3323(a) is amended to read:

(a) Upon a finding of guilt of a serious rule violation, a credit forfeiture against any determinate term of imprisonment or any minimum eligible parole date for an inmate sentenced to ~~a term of either 15 or 25 years to life~~ an indeterminate life term sentence, as

defined is section 3000 Indeterminate Sentence Law (ISL), shall be assessed within the ranges specified in (b) through (h) below:

Subsections 3323(b) through 3323(b)(3) remain unchanged.

Subsection 3323(b)(4) is amended to read:

(4) ~~Attempted battery~~ Assault or battery with a deadly weapon or caustic substance.

Subsections 3323(b)(5) through 3323(b)(7) remain unchanged.

Subsection 3323(b)(8) is amended to read:

(8) Possession, manufacture, or attempted manufacture of a deadly weapon or explosive device.

New Subsection 3323(b)(9) is adopted to read:

(9) Solicitation to commit an offense listed in subsections (b)(3), (b)(4) or (b)(5) above.

Subsection 3323(c) remains unchanged.

Subsection 3323(c)(1) is amended to read:

(1) Arson involving damage to a structure or causing serious bodily injury.

Subsection 3323(c)(2) remains unchanged.

Subsection 3323(c)(3) is deleted:

~~(3) Solicitation of battery with a deadly weapon or battery by means of force likely to produce serious injury, arson, or a forcible sex act.~~

Existing Subsections 3323(c)(4) through 3323(c)(6) are renumbered respectively, as follows:

Subsection 3323(c)(43): ...

Subsection 3323(c)(54): ...

Subsection 3323(c)(65): ...

Subsection 3323(c)(7) is renumbered and amended to read as follows:

Subsection 3323(c)(76): ...

~~(67)~~ Introduction or ~~D~~-distribution of any controlled substance, as defined in section 3000,
in an institution/facility or contract health facility.

New Subsection 3323(c)(7) is adopted to read:

(7) Extortion by means of force or threat.

Subsection 3323(c)(8) remains unchanged:

New Subsection 3323(c)(9) is adopted to read:

(9) Solicitation to commit an offense listed in subsections (c)(1), (c)(3), or (c)(8) above.

Subsection 3323(d) remains unchanged.

Subsection 3323(d)(1) is amended to read:

(1) ~~Attempted battery or b~~ Battery on a peace officer not involving the use of a weapon.

New Subsection 3323(d)(2) is adopted to read:

(2) Assault on a peace officer by any means likely to cause great bodily injury.

Existing Subsection 3323(d)(2) is renumbered and amended to read as follows:

Subsection 3323(d)(~~23~~): ...

~~(23)~~ Attempted battery or B battery on a non-prisoner.

Existing Subsection 3323(d)(3) is renumbered and is amended to read as follows:

Subsection 3323(d)(~~34~~): ...

~~(34) Threatening to kill or cause serious bodily injury of force or violence against to a~~
public official, their immediate family, their staff, or their staff's immediate family.

Existing Subsection 3323(d)(4) is renumbered and remains unchanged as follows:

Subsection 3323(d)(~~45~~): ...

Existing Subsection 3323(d)(5) is renumbered and is amended to read as follows:

Subsection 3323(d)(~~56~~): ...

~~(65) Theft, embezzlement, destruction, misuse, alteration, or damage, unauthorized acquisition, or exchange of to another's~~ personal property, state funds, or state property valued in excess of \$400.

Existing Subsection 3323(d)(6) is renumbered and is amended to read as follows:

Subsection 3323(d)(67): ...

~~(76) Unauthorized possession or control of any controlled substance as defined in section 3000, including marijuana, or controlled medication in an institution/facility or contract health facility.~~

Existing Subsections 3323(d)(7) through 3323(d)(9) are renumbered respectively, as follows:

Subsection 3323(d)(78): ...

Subsection 3323(d)(89): ...

Subsection 3323(d)(910): ...

New Subsection 3323(d)(11) is adopted to read:

(11) Solicitation to commit an offense as listed in subsections (d)(1) or (d)(2) above.

Subsections 3323(e) through 3323(e)(2) remain unchanged.

Existing Subsection 3323(e)(3) is deleted.

~~(3) Unauthorized possession of materials or substances altered from their original manufactured state or purpose and which can be made into a weapon, explosive or explosive making material, poison, caustic substance, or any destructive device. Examples include but are not limited to metal, paper, plastic, wood, and wire.~~

Existing Subsection 3323(e)(4) is renumbered to 3323(e)(3) and remains unchanged as follows:

Subsection 3323(e)(43): ...

Existing Subsection 3323(e)(5) is renumbered and amended to read as follows:

Subsection 3323(e)(54): ...

(54) Attempted E-extortion by means of threat.

Existing Subsection 3323(e)(6) is renumbered and remains unchanged as follows:

Subsection 3323(e)(~~6~~5): ...

Existing Subsection 3323(e)(7) is deleted.

~~(7) Solicitation of extortion, bribery, or forgery.~~

Existing Subsections 3323(e)(8) through 3323(e)(10) are renumbered respectively, as follows:

Subsection 3323(e)(~~8~~6): ...

Subsection 3323(e)(~~9~~7): ...

Subsection 3323(e)(~~10~~8): ...

New Subsection 3323(e)(9) is adopted to read:

(9) Unauthorized possession of drug paraphernalia as defined in Section 3000.

Existing Subsection 3323(e)(11) is renumbered and amended to read as follows:

Subsection 3323(e)(~~11~~10): ...

~~(11) The fermentation or distillation of materials in a manner consistent with the production of alcohol or the physical possession of alcohol in an institution/facility or contract health facility.~~

New Subsection 3323(e)(11) is adopted to read:

(11) Accessory to any felony offense.

Subsection 3323(e)(12) remains unchanged.

New Subsection 3323(e)(13) is adopted to read:

(13) Solicitation to commit an offense listed in subsections (e)(5), (e)(6), or (e)(7) above.

Subsection 3323(f) remains unchanged.

New Subsection 3323(f)(1) is adopted to read:

(1) Use of a controlled substance (except marijuana or Barbiturates), as identified in H&SC 11007, based solely on a positive test result from an approved departmental testing method.

Existing Subsection 3323(f)(1) is renumbered and is amended to read as follows:

Subsection 3323 (f)(~~12~~): ...

~~(12) Being under the influence of alcohol, any drug, controlled substance, or other intoxicant, as defined in section 3000 and unable to exercise care for personal safety or the safety of others. or other intoxicant not defined as a controlled substance in an institution/facility or contract health facility; or refusing to provide a urine specimen for the purpose of testing for the presence of controlled substance(s).~~

Existing Subsection 3323(f)(2) is deleted.

~~(2) Possession of any container, device, contrivance, instrument, or paraphernalia intended for unlawful injection or consumption of narcotics, drugs, or alcoholic beverages.~~

Subsections 3323(f)(3) through 3323(f)(7) remain unchanged.

Subsection 3323(f)(8) is amended to read:

~~(8) Attempted battery~~ Assault or battery on a prisoner with no serious injury.

Subsection 3323(f)(9) is amended to read:

~~(9) Fighting. Mutual combat with no serious injury where the aggressor cannot be determined.~~

New Subsection 3323(f)(10) is adopted to read:

(10) Assault of a peace officer by any means not likely to cause great bodily injury.

Existing Subsection 3323(f)(10) is renumbered and remains unchanged as follows:

Subsection 3323(f)(~~10~~11): ...

New Subsection 3323(f)(12) is adopted to read:

(12) Solicitation to posses, distribute or introduce an controlled substance into a institution or contract health facility.

Subsection 3323(g) remains unchanged.

Subsection 3323(g)(1) is amended to read:

(1) Theft, embezzlement, destruction, ~~misuse, alteration, or~~ damage, unauthorized acquisition or exchange of to another's personal property, state funds or state property valued at ~~more than \$50 but less than \$400.~~

Subsection 3323(g)(2) is amended to read:

(2) Possession ~~or manufacture~~ of alcoholic beverages or intoxicating substances in a community-access facility under the jurisdiction of CDCR.

Subsections 3323(g)(3) through 3323(g)(6) remain unchanged.

Subsections 3323(g)(7) through 3323(g)(7)(C) are deleted.

~~(7) Work-related offenses:~~

~~(A) Refusal to work with a significant work-related disciplinary history;~~

~~(B) Failure/refusal to perform assigned work with a significant work-related disciplinary history;~~

~~(C) Failure to participate in an assigned work/training program with a significant work-related disciplinary history.~~

Existing Subsection 3323(g)(8) is renumbered and remains unchanged as follows:

Subsection 3323(g)(87): ...

Existing Subsection 3323(g)(9) is renumbered and amended to read as follows:

Subsection 3323(g)(98): ...

(98) Commission of any misdemeanor offense not listed in this schedule, ~~and not specified as administrative in section 3314.~~

Existing Subsection 3323(g)(10) is renumbered and remains unchanged as follows:

Subsection 3323(g)(109): ...

New Subsection 3323(g)(10) is adopted to read:

(10) Solicitation to commit an offense listed in subsections (g)(4) or (g)(7) above.

Subsections 3323(h) through 3323(h)(2) remain unchanged.

New Subsections 3323(h)(3) through 3323(h)(9)(B) are adopted to read:

(3) Use of marijuana, barbiturates or alcohol based solely on a positive test result from an approved departmental testing method.

(4) Misuse, alteration, unauthorized acquisition, or exchange of personal property, state funds, or state property.

(5) Refusing to provide a urine specimen for the purpose of testing for the presence of controlled substance(s) or alcohol.

(6) The fermentation or distillation of materials in a manner consistent with the production of alcohol.

(7) Possession of dangerous contraband as identified in section 3000.

(8) Unauthorized possession or distribution of medication (not identified as a controlled substance in section 3000).

(9) Work related offenses:

(A) Refusal to work or perform assigned duties;

(B) Continued failure to perform assigned work or participate in a work/training program.

Existing Subsection 3323(h)(3) is renumbered and is amended to read as follows:

Subsection 3323(h)(310): ...

(310) Any other serious rule violation meeting the criteria listed in section 3315, and not a crime, and not identified as administrative in section 3314.

Subsections 3323(i) through 3323(k)(4) remain unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 148, 243, 295–300.3, 314, 647, 2932, 2933, 4573.6, 4600, 5054 and 12020, Penal Code.

Section 3327. Restoration of Forfeited Credits is amended to read:

Subsection 3327(a) through 3327(a)(1) remain unchanged.

Subsection 3327(a)(2) is amended to read:

(2) No credit shall be restored if the inmate is found guilty of any subsequent rule violation that occurred within the required disciplinary-free periods provided in Section 3328.

Subsection 3327(a)(3) remains unchanged.

Subsection 3327(a)(4) is amended to read:

(4) No credit shall be restored for the following disciplinary offenses: ~~where the inmate was ordered to submit to a drug test pursuant to section 3290(e) and refused to test:~~

New Subsections 3327(a)(4)(A) through 3327(a)(4)(D) are adopted to read:

(A) The inmate was found guilty of use of a controlled substance, marijuana, or alcohol, based on a positive test result from a departmentally approved testing method;

(B) The inmate was ordered to submit to a drug test pursuant to section 3290(c) and refused the test;

(C) The inmate was found guilty of fermentation or distillation of materials in a manner consistent with the production of alcohol in a prison or community access facility;

(D) The inmate was found guilty of unauthorized possession of dangerous contraband as defined in section 3000.

Subsection 3327(b) through 3327(d) remain unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 273a, 273ab, 273d, 667.5, 2932, 2932.5, 2933, 3058.6, 3058.9, and 5054, Penal Code.

Section 3328. Disciplinary-Free Periods is amended to read:

Subsection 3328(a) is amended to read:

(a) A disciplinary-free period shall commence immediately following the date and time an inmate is identified (date of discovery of information leading to the charge) as committing a rules violation. ~~the day following issuance of the CDC Form 115.~~

Subsection 3328(b) is amended to read:

(b) An inmate may apply for restoration of 100 percent of any credit forfeited for a Division “D” or “E” offense, not identified in section 3327, after remaining disciplinary free for ~~six months~~ 180 days.

Subsection 3328(b)(1) is amended to read:

(1) If less than ~~six months~~ 180 days remain before the inmate’s established release date, a one-time application may be made within 90 days of the established release date ~~if~~ when the inmate has remained disciplinary free for a minimum of 60 days ~~two months~~.

Subsection 3328(b)(2) remains unchanged.

Subsection 3328(c) is amended to read:

(c) An inmate may apply for restoration of 100 percent of any credit forfeited for a Division “F” offense, not identified in section 3327, after remaining disciplinary free for 90 days ~~three months~~.

Subsection 3328(c)(1) is amended to read:

(1) If less than 90 days ~~three months~~ remain before the inmate's established release date, a one-time application may be made within 60 days of the established release date when the inmate has remained disciplinary free for a minimum of 30 days ~~one month~~.

Subsection 3328(c)(2) remains unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 273a, 273ab, 273d, 667.5(c), 2932, 2933, 3058.6, 3058.9, and 5054, Penal Code.